

29700. Misbranding of canned cherries. U. S. v. 97 Cases of Canned Cherries (and two other seizure actions). Consent decrees of condemnation. Product released under bond to be relabeled. (F. & D. Nos. 43052, 43177, 43178. Sample Nos. 19569-D, 19570-D, 19582-D.)

This product fell below the standard established by this Department because of the presence of excessive pits, and it was not labeled to indicate that it was substandard.

On July 13 and August 2, 1938, the United States attorney for the District of Minnesota, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 867 cases of canned cherries at Duluth, Minn.; alleging that the article had been shipped in interstate commerce in part on or about August 7, 1937, and in part on or about April 25, 1938, by H. C. Hemingway & Co. from Lockport, N. Y.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Schuyler Pitted Red Cherries [or "Red Sour Pitted Cherries"] Distributed by [or "Packed By"] H. C. Hemingway & Co. Auburn Cayuga Co. N. Y."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since there was present more than 1 cherry pit per 20 ounces of net contents, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On September 30, 1938, H. C. Hemingway & Co., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond conditioned that it be relabeled in accordance with the law.

M. L. WILSON, *Acting Secretary of Agriculture.*

29701. Adulteration of flour. U. S. v. 65 Bags, et al., of Flour. Decree of condemnation. Product released under bond for salvage as animal feed. (F. & D. Nos. 43989, 43990, 43991, 43994, 43995. Sample Nos. 49754-D to 49757-D, inclusive, 49760-D.)

This produce having been shipped in interstate commerce and remaining unsold and in the original packages, was at the time of examination found to be insect-infested.

On or about September 28, 1938, the United States attorney for the Northern District of Mississippi, acting upon reports by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 920 bags of flour at Greenwood, Miss.; alleging that the article had been shipped between the dates of September 18, 1937, and August 15, 1938, in part by P. H. Postel Milling Co. from Mascoutah, Ill., in part by the Trenton Milling Co. from Trenton, Ill., and in part by the Interior Flour Mills from Clinton, Mo.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part, variously: "Cotton Dolly Flour P. H. Postel Milling Co.,"; "Silver Spoon Highest Patent Flour"; "First Choice Patent Flour Manufactured for LeFlore Grocery Co., Greenwood, Miss."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On October 27, 1938, Le Flore Grocery Co., Greenwood, Miss., having appeared as claimant, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be salvaged by mixing it so that it could not be used for human consumption but could be used for animal feed.

M. L. WILSON, *Acting Secretary of Agriculture.*

29702. Adulteration of flour. U. S. v. 255 Bags and 100 Bags of Flour. Consent decrees of condemnation. Product released under bond. (F. & D. Nos. 44080, 44081. Sample Nos. 38159-D, 38160-D.)

This product having been shipped in interstate commerce and remaining unsold and in the original packages, was at the time of examination found to be insect-infested.

On October 5, 1938, the United States attorney for the Middle District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 355 bags of flour at Dothan, Ala.; alleging that the article had been shipped in interstate commerce on or about July 6, 1938, by Collins Flour Mills, Inc., from Seattle, Wash.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Baart Cut-Off Flour."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On October 26, 1938, Indiana Flour Co., Inc., Dothan, Ala., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be re-worked or denatured, and should not be distributed except for animal feed or other approved purposes.

M. L. WILSON, *Acting Secretary of Agriculture.*

29703. Adulteration of candy. U. S. v. 14 Boxes and 15 Cartons of Candy. Default decrees of condemnation and destruction. (F. & D. Nos. 43105, 43483. Sample Nos. 23897-D, 38113-D.)

This product having been shipped in interstate commerce and remaining unsold and in the original packages, was at the time of examination found to be insect-infested.

On July 20 and August 26, 1938, the United States attorneys for the Western District of Texas and the Southern District of Alabama, acting upon reports by the Secretary of Agriculture, filed in the district courts libels praying seizure and condemnation of 14 boxes of candy at San Antonio, Tex., and 15 cartons of candy at Mobile, Ala.; alleging that the article had been shipped in part on or about April 7, and in part on or about June 13, 1938, by Pravata Candy Co. from New Orleans, La.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On October 7 and 12, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

29704. Adulteration of apples. U. S. v. 15 Bushels of Apples (and three similar seizure actions). Consent decrees of condemnation and destruction. (F. & D. Nos. 44031, 44032. Sample Nos. 32768-D, 32769-D, 32777-D, 32779-D.)

This product was contaminated with arsenic and lead.

On August 27, 1938, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 48 bushels of apples at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about August 21, 1938, by the Shafton Co. from Benton Harbor, Mich.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "Ed Brenner R-2 Watervliet, Mich."

It was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On October 10 and 11, 1938, the consignee having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

29705. Misbranding of butter. U. S. v. 10 and 13 Cases of Butter. Consent decrees of condemnation. Product released under bond for relabeling or repacking. (F. & D. Nos. 44377, 44385. Sample Nos. 31100-D, 27425-D.)

Samples of this product were found to be short weight.

On November 3 and November 7, 1938, the United States attorney for the District of Wyoming, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 23 cases of butter at Cheyenne, Wyo.; alleging that the article had been shipped in interstate commerce on or about October 30 and November 2, 1938, by the North Platte Valley Non-Stock Cooperative Cheese Co. from Gering, Nebr.; and charging misbranding in violation of the Food and Drugs Act as amended. A portion of the article was labeled in part: "Armour's Cloverbloom Butter 1 lb." The remainder was labeled in part: "Beauty Girl Quality Butter * * * One Pound Net Quarters."

Misbranding was alleged in that the statements on the labels, "1 lb." and "One Pound Net," were false and misleading since the cartons did not contain 1 pound net weight. Misbranding was alleged further in that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.